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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,211	12/01/2003	William B. Sykes SR.	02922-01	4698
7590		05/04/2005	EXAMINER	
Walter L. Beavers		LA, ANH V		
326 South Eugene Street		ART UNIT		
Greensboro, NC 27401		PAPER NUMBER		
		2636		
DATE MAILED: 05/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,211

Applicant(s)

WILLIAM B. SYKES SR.

Examiner

Anh V. La

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/01/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. Applicant is requested to provide reference B cited in the Information Disclosure Statement by Applicant filed on December 01, 2003.

2. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "said battery" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "said power source" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5, 9, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rocco in view of Gray.

Regarding claim 1, Rocco discloses a device for sensing foot contact with a surface comprising an electrical circuit (figures 1-6), a light 27, a push button switch 60, 86, a power supply 90 or a battery 90, a shoe 12, the power supply, switch and light connected to the electrical circuitry whereby closing the switch by contacting a surface

Art Unit: 2636

will activate the light. Rocco does not disclose a vibrator. Gray teaches the use of a signaling device being provided by a light, an audible signal, or a vibrator (column 8, lines 50-67, col. 9, lines 1-10, col. 10, lines 1-10). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a vibrator to the device of Rocco as taught by Gray for the purpose of providing a vibration signal to the user.

Regarding claim 2, Rocco discloses a battery 90.

Regarding claim 3, Rocco discloses a push button switch 60, 86, of the normally-open type.

Regarding claim 5, it is old and well-known to use a nine volt (9V) battery for providing battery as a power supply.

Regarding claim 9, Rocco discloses a shoe 12, and the switch 60 mounted in the shoe.

Regarding claim 10, Rocco discloses a push button 60, 86, and the shoe exposing the push button.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rocco in view of Gray as applied to claim 1 above, and further in view of Firooz.

Regarding claim 4, Rocco as modified by Gray teaches all the claimed subject matter as set forth above in the rejection of claim 1, but does not disclose a mobile phone vibrator. Firooz teaches the use of a mobile phone vibrator (col. 1, lines 45-62). It would have been obvious at the time the invention was made to a person having

Art Unit: 2636

ordinary skill in the art to include a mobile phone vibrator to the device of Rocco (modified by Gray) as taught by Firooz for the purpose of providing a vibration signal to the user.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rocco in view of Gray as applied to claim 1 above, and further in view of Gilmore.

Regarding claim 6, Rocco as modified by Gray teaches all the claimed subject matter as set forth above in the rejection of claim 1, and further discloses a conductor for delivering electrical current from the power supply through the switch to the vibrator, but does not disclose the conductor being metal. Gilmore teaches that it is old and well-known to use a metal conductor (col. 17, lines 60-65). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a metal conductor to the device of Rocco (modified by Gray) as taught by Gilmore for the purpose of delivering electrical current from the power supply through the switch to the vibrator.

7. Claims 7-8 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rocco in view of Gray as applied to claim 1 above, and further in view of Sipe.

Regarding claims 7, 8, 11, 12 and 14, Rocco as modified by Gray teaches all the claimed subject matter as set forth above in the rejection of claim 1, but does not disclose a leg strap (claim 7, 11), the strap being a hook and loop fastener material (claims 8, 12), and the battery being affixed to the strap (claim 14). Sipe teaches the

Art Unit: 2636

use of a leg strap 76, the strap 76 being a hook and loop fastener material, and the battery 60 being affixed to the strap. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a leg strap, the strap being a hook and loop fastener material, and the battery being affixed to the strap to the device of Rocco (modified by Gray) as taught by Sipe for the purpose of attaching the vibrator to the user.

Regarding claim 13, Rocco as modified by Gray and Sipe teaches all the claimed subject matter as set forth above in the rejection of claim 11, and further discloses the shoe defining an opening in the toe portion to expose the switch (fig. 2), but does not disclose the shoe defining an opening in the heel portion to expose the switch. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include the shoe defining an opening in the heel portion to expose the switch for the purpose of effectively sensing the foot contact with the surface.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bechmann teaches a load signaling device of a patient's foot.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh V. La whose telephone number is (571) 272-2970. The examiner can normally be reached on Mon-Fri from 9:30am to 6:00pm.

Art Unit: 2636

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANH V. LA
PRIMARY EXAMINER

Anh V La
Primary Examiner
Art Unit 2636

AI
March 29, 2005